

REMARKS

Claims 1-4 have been allowed.

Claim 9 is rejected in the Action as being indefinite under 35 U.S.C. § 112, second paragraph.

Claims 8-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Armour et al., U.S. Patent No. 5,703,240 ("Armour") and Giblin et al., U.S. Patent No. 5,919,803 ("Giblin").

The rejections are now moot. Claims 8-11 have been canceled.

Claim Objections

Claims 5-7 are objected to under 37 CFR 1.75 as each being a substantial duplicate of claim 1. The position of the Office is that the process of each of claims 5-7 is the same as the process of claim 1, the only difference being that the final product of each of claims 5-7 is a species that is covered by generic claim 1.

The objection to each of claims 5-7 being a substantial duplicate of claim 1 is respectfully submitted to be incorrect. Claims 5-7 have a different scope than claim 1. The scope of the reactants and the scope of the products are different. The claims do not cover the same thing.

As noted in MPEP 706.03(k), cited in the objection:

"However, court decisions have confirmed applicant's right to restate (i.e., by plural claiming) the invention in a reasonable number of ways. Indeed, a mere difference in scope between claims has been held to be enough."

See also *In re Gemassmer*, 140 USPQ 250, 256 (CCPA 1964) and *In re Wood*, 69 USPQ 337, 340 (CCPA 1946).

Removal of the objection to claims 5-7 and a notice of allowability of claims 1-7 are believed to be in order and are respectfully solicited.

The foregoing is believed to be a complete and proper response to the Office Action dated August 8, 2008, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

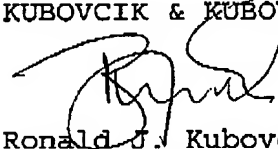
PATENT APPLN. NO. 10/565,801
RESPONSE UNDER 37 C.F.R. §1.111

PATENT
NON-FINAL

In the event any additional fees are required, please also
charge our Deposit Account No. 111833.

Respectfully submitted,

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